

The complaint

A limited company, which I'll refer to as 'E', is unhappy that HSBC UK Bank Plc didn't reinstate a direct debit for its Bounce Back Loan ("BBL") which it feels led to monthly payments for that loan being missed and ultimately to HSBC defaulting the account.

E's complaint is brought to the Financial Ombudsman Service by its director, whom I'll refer to as 'Mr P'.

What happened

In 2023, HSBC contacted Mr P and explained that it required E to undertake a safeguard review, which meant that Mr P needed to provide detailed information about E to HSBC. To complete the review within the timeframe required by HSBC, Mr P attended a HSBC branch in August 2023, wherein he spoke with the relevant HSBC department by telephone and ensured that all the required information for E was submitted.

However, shortly afterwards, Mr P received a notice from HSBC that E hadn't completed the required safeguard review within the necessary timeframe, and that because of this E's business accounts had been closed and would only be reopened when the HSBC received the required safeguard review information. Mr P wasn't happy about this, especially as he'd already provided the required information to HSBC, so he raised a complaint on E's behalf.

HSBC responded to Mr P regarding E's complaint on 23 August 2023 and reiterated that E's accounts had been closed because the safeguard review hadn't been completed within the required timeframe. And HSBC also confirmed that E's accounts would be reopened when the safeguard review was complete.

Because HSBC had closed E's business accounts, this meant that the direct debit that had been in place to make monthly payments to E's BBL from its business current account had been cancelled. This meant that E didn't make its BBL payment for August 2023, and because no alternative payment was made by E, the BBL fell into arrears. And for the same reasons, E's BBL payments in September and October 2023 were also missed.

On 20 October 2023, HSBC considered E's safeguard review to have been successfully completed and reopened E's accounts. HSBC also wrote to Mr P and explained that E's BBL was three months in arrears at that time and that E needed to clear the accrued loan arrears as a matter of urgency.

But E didn't clear the three months BBL arrears that had accrued. And it also didn't make the November 2023 payment, meaning that the BBL fell four months into arrears. Because of this, HSBC issued a default notice to E on 21 November 2023, which explained that E needed to clear the full four months or arrears within 21 days, by 12 December 2023.

E didn't clear the BBL arrears in the time given to do so, and it also missed the December 2023 payment and so fell five months into arrears. This led HSBC to issue a final demand to E on 3 January 2024. This demand required E to repay the full outstanding balance of the BBL by 21 January 2024 and explained that if E didn't do this, that HSBC would move to

default its BBL and pass the loan debt to its collections and recoveries team.

E didn't repay the full outstanding balance of the BBL by 21 January 2024, and so HSBC defaulted the loan and transferred the account debt to its collections and recoveries team, which then transferred the debt to a Debt Recovery Agency ("DRA"). Mr P wasn't happy that E's BBL had been defaulted by HSBC or transferred to a DRA. So, he raised another complaint with HSBC on E's behalf.

HSBC responded to this second complaint on 8 February 2024 but didn't feel that they'd done anything wrong by following the BBL arrears process that they had. Mr P didn't agree, and so he referred E's complaint to this service on 6 March 2024.

One of our investigators looked at this complaint. But they didn't feel that HSBC had acted unfairly in how they'd administered E's BBL and so didn't uphold the complaint. Mr P remained dissatisfied, so the matter was escalated to an ombudsman for a final decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I issued a provisional decision on this complaint on 6 March 2025 as follows:

Does the Financial Ombudsman Service have the power to consider the complaint about the safeguard review?

When E raised its first complaint with HSBC, which was about how HSBC had conducted the safeguard review, HSBC issued its response to that complaint on 23 August 2023. And within that response, HSBC gave E the right to refer its complaint to this service, if E wasn't happy with HSBC's response, so long as E did so within six months of the date of the complaint response. This meant that E had until 23 February 2024 to refer this first complaint to this service.

When E later raised its second complaint with HSBC, which was about the defaulting of the BBL, HSBC issued its response to that second complaint on 8 February 2024. And again, this response gave E the right to refer that complaint to this service, so long as it did so within six months. And this meant that E had until 8 August 2024 to refer its second complaint to us.

Mr P did refer E's continuing dissatisfaction to this service, but he did so on 6 March 2024. This meant that E's referral to this service was made too late for us to be able to consider E's continuing dissatisfaction about its first complaint, because this complaint had to have been referred to the Financial Ombudsman Service by 23 February 2024.

This service has strict rules by which we must abide. These rules can be found in the Dispute Resolution ("DISP") section of the Financial Conduct Authority ("FCA") Handbook, and they include that this service can't consider a complaint that's referred to us after the six-month timeframe given by the business in its complaint response letter has elapsed.

There can be two exceptions to this rule, the first being if the business gives this service its permission to consider a complaint that has been referred to us outside of the six-month window. But HSBC haven't given their permission for us to consider their complaint in this instance, and they aren't expected or obliged to do so.

The second possible exception is if I feel that there have been exceptional circumstances

which reasonably prevented a complainant from referring their complaint to us within the six-month window. This 'exceptional circumstances' clause will only be employed if the circumstances truly are exceptional. For instance, an example of when it might apply would be if a complainant had been in a coma, and therefore had been physically unable to refer their complaint to us.

In this instance, I don't feel that there was anything that reasonably prevented E from referring its continuing dissatisfaction about its first complaint to this service within the six-months given for it to do so. Rather, I feel that E simply referred its continuing dissatisfaction about this first complaint to this service too late for us to be able to consider it.

If Mr P feels that there are exceptional circumstances that explain his failure to refer the complaint about the safeguard review within six months, I invite him to explain those to me and I will consider them before issuing my final decision.

I draw attention to these points because, in their view of this complaint, our investigator assessed the circumstances surrounding both of E's complaints, including HSBC's handling of the safeguard review. But I don't feel that this was correct because I feel that E has referred its dissatisfaction about its first complaint to this service after the six-month window for it to do so had expired – which means that this service can't consider E's continuing dissatisfaction about that complaint.

Because of this, I confirm that I won't be considering E's continuing dissatisfaction about its first complaint, which was regarding HSBC's handling of the safeguard review, for the reasons given above. And I also confirm that I will only be considering E's dissatisfaction about its second complaint, which was regarding the defaulting of its BBL.

Did HSBC act unfairly in putting E's BBL into default and transferring it to a DRA?

When HSBC temporarily closed E's business bank accounts in August 2023, this didn't reduce or diminish E's requirement to make monthly payments to its BBL. And while E couldn't make payments to its BBL from its HSBC business current account because it was temporarily closed, E was still contractually required to make monthly payments to the BBL from an alternative channel.

Additionally, when HSBC reopened E's business bank accounts in October 2023, E was expected to clear any arrears that had accrued on the BBL at that time and to make the ongoing loan payments that were contractually required of it.

Ultimately, E didn't do this. And I'm satisfied that HSBC sent E a series of letters which detailed the adverse position of its BBL account and the potential consequences if the position of that account wasn't resolved. These letters include a default notice and a final demand, both of which I feel were clear and explicit in their message. And because E didn't clear the arrears that had accrued on its BBL account, I don't feel that it was unfair or unreasonable for HSBC to conclude their account arrears process by moving to default E's BBL as they did.

As part of my review, I've considered a letter that HSBC sent to E dated 24 October 2023. This letter explained that HSBC would be reopening E's business bank accounts, and it also said that HSBC would 're-activate any standing orders and direct debits'.

But HSBC didn't reactivate E's BBL direct debit as this letter suggests they would. And so, I've thought about whether events might have transpired differently here if HSBC had reinstated that direct debit, which would have meant that E made its BBL payments from November 2023 onwards and so didn't fall any more than three months into arrears.

However, having considered this point, I feel that the most likely outcome is that E's BBL would still have been defaulted by HSBC, even had the BBL direct debit been reinstated by HSBC as the 24 October letter states that it should have been.

This is because in this scenario, E's BBL would still have been three months in arrears (the payments for August, September, and October 2023 having been missed). And because standards published by the Information Commissioner's Office ("ICO"), by which many banks seek to abide, include that a loan should be defaulted after it has fallen three months, but before it has fallen six months, into arrears.

As such, I feel that what's most likely to have happened here is that HSBC would have issued the same correspondence to E as it did, because E's BBL was (and would have remained) three months in arrears. And because E didn't take any action to clear the BBL arrears that had accrued on its account, I feel that the most likely outcome is that HSBC would still have issued a default notice and a final demand to E for the outstanding three months of arrears and would have defaulted the loan when those arrears weren't repaid.

Mr P is also unhappy that HSBC transferred E's BBL debt to a DRA. But the transferal of debt to DRAs is a common practice and one which is addressed and permitted by the terms of the BBL agreement, which the directors of E agreed and consented to when they took the loan. And HSBC didn't require any further authorisation from E beyond this to transfer the BBL debt to a DRA as they did.

Finally, Mr P is unhappy that the DRA employed by HSBC has contacted the previous owner of E about the debt, which he feels is a breach of regulation. However, this service isn't a regulatory body, and so I can only refer Mr P to the relevant regulatory body here, which I believe to be the ICO, if he wishes to pursue this aspect of his dissatisfaction further.

All of which means that I don't feel that HSBC have acted unfairly towards E here as Mr P contends. And it follows from this that my provisional decision is that I do not uphold this complaint and won't be instructing HSBC to take any further or alternative action.

Neither Mr P nor HSBC responded to my provisional decision. As such, I see no reason not to issue a final decision here whereby I do not uphold this complaint on the basis explained above. And I therefore confirm that my final decision is that I do not uphold this complaint accordingly.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask E to accept or reject my decision before 23 April 2025.

Paul Cooper
Ombudsman